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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.

Plaintiff,

v.

CIENA CORPORATION

Defendant.

CASE NO. 3:20-CV-08628-EMC

**DEFENDANT CIENA CORPORATION'S
STATEMENT OF RECENT DECISION
PURSUANT TO LOCAL RULE 7-3(D)(2)**

Defendant Ciena Corporation (“Ciena”) respectfully submits this statement of recent decision in support of its Partial Motion to Dismiss (Dkt. 22) pursuant to Local Rule 7-3(d)(2).

Exhibit A is an opinion from this Court construing claim terms of the same two patents that Capella Photonics, Inc. (“Capella”) asserts in this action. *Cisco Sys., Inc. v. Capella Photonics, Inc.*, Case No. 20-cv-01858-EMC (N.D. Cal. Apr. 29, 2021). In the pending motion to dismiss, Capella argued that it did not narrow its claims when it changed the term “ports” to “fiber collimator ... ports” so that absolute intervening rights do not apply. *See, e.g.*, Dkt. 27 at 20. In the attached order, this Court rejected Capella’s argument and found “[t]he term ‘port’ is not limited to ‘fiber collimator port,’” that “[a] fiber collimator that is ‘providing’ a port is not necessarily a fiber collimator port,” and that “Capella did not define the term ‘port’ to mean ‘fiber collimator port,’ nor did it disavow the full scope of the term ‘port.’” Ex. A at 15, 20-21.

Dated: April 30, 2021

Respectfully submitted,

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/s/ Brian W. Lewis
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